

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 396 of 1992

For Approval and Signature:

HON'BLE MR.JUSTICE D.A.MEHTA Sd/-

and

HON'BLE MS.JUSTICE H.N.DEVANI Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

COMMISSIONER OF INCOME-TAX

Versus

GURJAR SUTHAR PRAGATI MANDAL

Appearance:

1. INCOME TAX REFERENCE No. 396 of 1992
MR MANISH R BHATT for Petitioner No. 1
NOTICE SERVED for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE D.A.MEHTA
and
HON'BLE MS.JUSTICE H.N.DEVANI

Date of decision: 12/01/2005

ORAL JUDGEMENT

(Per : HON'BLE MS.JUSTICE H.N.DEVANI)

1 The Income Tax Appellate Tribunal, Ahmedabad Bench 'A' under Section 256(1) of the Income Tax Act,1961 (the Act) has referred the following question of law for the opinion of this Court at the instance of the Commissioner of Income Tax, Baroda for the Assessment Year 1986-87 :

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the provisions of Sec.13(1)(b) of the I.T.Act,1961 were not applicable and the assessee trust was entitled to exemption u/s.11 of the I.T.Act,1961 as claimed ?"

2 Mr.M.R.Bhatt, learned Standing Counsel for the revenue has fairly conceded that the question which has been referred to this Court has been answered by this Court in unreported decisions in case of Commissioner of Income Tax Vs. Leuva Patel Kelavani Mandal decided on 12/09/2001 in ITR No.115 of 1987 and in case of Commissioner of Income Tax Vs. Leuva Patel Nutan Kelavani Mandal decided on 29/8/2002 in ITR No.109 of 1988. In view of the fact that the question referred to this Court is concluded by the aforesaid decisions of this Court, the question referred to this Court is answered in the affirmative i.e. in favour of the assessee and against the revenue.

3 The Reference stands disposed of accordingly.
There shall be no order as to costs.

(D.A.Mehta,J)

(H.N.Devani,J)

m.m.bhatt